

**ERWIN BOARD OF COMMISSIONERS  
MEETING MINUTES  
DECEMBER 10, 2009  
REGULAR MEETING  
ERWIN, NORTH CAROLINA**

The Board of Commissioners for the Town of Erwin with Mayor Patsy Carson presiding, held its Regular Meeting in the Town Hall on Thursday, December 10, 2009 at 7:00 P. M. in Erwin, North Carolina.

Board Members present were: Commissioners Randy Baker, William Corbett, Frank Taylor and Michael West.

Board Members absent were: Commissioner Mark Whitman and Norma Ennis.

Town Manager Bryan Thompson, Town Clerk Cynthia Patterson and Town Attorney Mac Hunter were present.

Mayor Patsy Carson called the meeting to order at 7:00 P. M.

Commissioner Taylor gave the invocation.

Those present recited the Pledge of Allegiance.

**OATH OF OFFICE TO COUNCIL MEMBERS**

Mayor Patsy Carson introduced Judge Resson Faircloth, who will administer the Oaths of Office to the Elected Officials.

Judge Faircloth called each city official to be sworn in by repeating the Oath of Office.

Re-Elected Official Patsy Carson repeated the Oath of Office while being accompanied by her son Jason Carson holding the Bible.

Re-Elected Official Randy Baker repeated the Oath of Office as Commissioner, accompanied by his daughter Kayla Baker holding the Bible.

Re-Elected Official Frank Taylor repeated the Oath of Office as Commissioner, accompanied by his wife Willa Taylor holding the Bible.

**MINUTES OF DECEMBER 10, 2009 CONTINUED****ELECTION OF MAYOR PRO TEM**

Mayor Carson informed the Board that the Organizational Meeting is to be held on the first regularly scheduled meeting in December following an election. The primary role of this meeting is to elect a Mayor Pro Tem.

Mayor Carson then asked for nominations.

Commissioner Corbett made a nomination to elect Commissioner Randy Baker.

Commissioner Taylor made a nomination to elect Commissioner Norma Ennis.

Mayor Carson then closed nominations and asked for a vote.

Commissioner Corbett made a motion to appoint Randy Baker as Mayor Pro Tem and was seconded by Commissioner Baker. The Board voted 2 for and 2 against (Commissioners Taylor and West).

Commissioner Taylor made a motion to appoint Commissioner Norma Ennis and was seconded by Commissioner West. The Board voted 2 for and 2 against (Commissioners Baker and Corbett).

Due to a tie Mayor Carson then voted for Commissioner Randy Baker as Mayor Pro Tem.

**AGENDA ADJUSTMENTS/APPROVAL OF AGENDA**

Commissioner Baker made a motion to remove **Item F** Adoption of Recreation Advisory Board Bylaws from Consent Items and place as **Item F** under New Business for clarification and place **Item G** Resolution Requesting Financial Assistance from the State of North Carolina for Feasibility Study of Culvert Improvement on River Drive under New Business and under Consent **Item C** Tax Releases/Refunds 78-118 change to read 78-132 and was seconded by Commissioner Taylor. The Board voted 4 for with 2 absent (Commissioners Whitman and Ennis).

**CONSENT ITEMS**

Commissioner West made a motion to approve **Item (A)** Approval of Special Called Minutes on 11/03/09, **Item (B)** Approval of Regular Meeting Minutes on 11/12/09, **Item (C)** Adoption of Town of Erwin Schedule of 2010 Regular Public Meetings of the Town Board of Commissioners, **Item (D)** Tax Releases/Refunds: Reference 78-132, **Item (E)** PARTF Contract Amendment No. 1: Contract Number P08012, **Item (F)** Budget Amendment: Reference Town Hall Property Damage Claim, **Item (G)** Recognition of Certificate of Appreciation from the 1<sup>st</sup> Battalion of the 28<sup>th</sup> Infantry Regiment, and was seconded by Commissioner Baker. The Board voted 4 for with 2 absent (Commissioners Whitman and Ennis).

**MINUTES OF DECEMBER 10, 2009 CONTINUED****PUBLIC HEARING****CONSIDERATION OF TEXT AMENDMENT OF ZONING ORDINANCE –  
REFERENCE: FENCE ORDINANCE**

Commissioner Baker made a motion to open Public Hearing at 7:15 P.M. and was seconded by Commissioner Corbett. The Board voted 4 for with 2 absent (Commissioners Whitman and Ennis).

Town Manager Bryan Thompson informed the Board that the proposed language for the text amendment is to provide more clarity and specific requirements and limitations with respect to the erection of such structures in the future.

Mayor Carson asked if anyone wanted to speak in favor of the Fence Ordinance to come forward and state your name, address and oath.

No one came forward.

Mayor Carson asked if anyone wanted to speak against the Fence Ordinance to come forward and state your name, address and oath.

No one came forward.

Commissioner Baker made a motion to close Public Hearing at 7:16 P.M. and was seconded by Commissioner Corbett. The Board voted 4 for with 2 absent (Commissioners Whitman and Ennis).

**OLD BUSINESS****CONSIDERATION OF TEXT AMENDMENT OF ZONING ORDINANCE –  
REFERENCE: BUFFER STRIPS**

Commissioner Taylor made a motion to table this issue until all of the Commissioners are present and to allow more time to review the document.

Commissioner Baker stated that the Planning Board had reviewed this issue several times and feels comfortable in approving this item.

Commissioner Taylor stated he would like a opportunity to review this further so he would be comfortable in approving this issue however if this is going to hold up the progress of Erwin he would withdraw his motion to table.

**MINUTES OF DECEMBER 10, 2009 CONTINUED**

Commissioner Baker made a motion to approve the Resolution for the Text Amendment related to Buffers the Definition and Buffer Strips and was seconded by Commissioner West. The Board voted 3 for, 1 against and 2 absent. (Commissioners Ennis and Whitman).

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**NEW BUSINESS****CONSIDERATION OF TEXT AMENDMENT OF ZONING ORDINANCE –  
REFERENCE: FENCE ORDINANCE**

Town Manager Bryan Thompson informed the Board that the current language of the Town Fence Code, the proposed language to replace the same, and the enacting statement for the adoption of the new language.

After no discussion, Commissioner Baker made a motion to approve the Text Amendment to Fences as presented by Staff and reviewed by the Planning Board and was seconded by Commissioner Corbett. The Board voted 3 for, 1 against (Commissioner Taylor) and 2 absent. (Commissioners Ennis and Whitman).

Town Manager Bryan Thompson advised the Board that since this is the first time this issue has been brought to the Board of Commissioners we would need a majority of the vote and since there are two (2) Commissioners absent and one (1) Commissioner against the issue this motion did not pass. It was suggested to table this issue until the next meeting.

Commissioner Baker made a motion to Table the Text Amendment to Fences until the next meeting and was seconded by Commissioner Corbett. The Board voted 4 for with 2 absent (Commissioners Whitman and Ennis).

**MANDATED RECYCLING OPTIONS AND INFORMATION TO PROCEED**

Town Manager Bryan Thompson informed the Board that the State of North Carolina has placed, among other items, plastic bottles on a band list and has further required local jurisdictions to provide facilities to its citizens to comply with this new legislation. The two primary methods used with frequency are providing a convenient site on town property where citizens can bring and dispose of such waste. The other method is to provide curbside service for the disposal of such material. Curbside is the most widely used and feasible and Staff is currently in conversation with Republic Waste to see exactly what the cost might be so it can be presented to the Board for consideration. Dunn, Coats, and Angier are currently using convenient sites however each of them have not had satisfactory reports.

**MINUTES OF DECEMBER 10, 2009 CONTINUED**

Commissioner Baker stated that the only way in having a convenient site and try to look at a cost savings; it would have to be located where it's not going to be open 24hrs a day. The location would need to be where staff could monitor the site but then you are back to limiting the recycling to the citizens during operational hours. Commissioner Baker stated that curbside would be the best option due to the fact that you are going to have people not physically able to go to a central location.

Town Manager Bryan Thompson stated that there is a reasonable public policy line that needs be drawn and before we take that step we need to get more clarity and definition from Republic Waste and what their perimeters are if the Town decides to go this route.

Commissioner Corbett asked the question that if Dunn and Erwin decided to go curbside basically at the same time it might be slightly less? Mr. Thompson replied that was the proposal that's been given to Dunn and Erwin since both jurisdictions are working on options for recycling. Republic Waste would be able to order the cans in bulk and save some money and then also since the boundaries are so close to one another be able to provide the service at a lesser cost.

Commissioner Baker asked the question do the citizens have an option of preceding this additional recycling service, some people may want to know for a fact that their items are being removed in an appropriate manor. If the Town implements this, would each individual be required to have this recycling if they currently have a receptacle for Solid Waste and another question would be how would this affect the Commercial Business. Mr. Thompson stated to the first question that this is something that we would have to determine; is it a requirement of the Town to ensure 100% participation or is it the Town's responsibility to provide the option for that participation. The main part of it is the perimeters that Republic Waste draws with providing of the service while maintaining a reasonable rate per unit and base on that the Town would have to draw some public policy to ensure that the rates are protected for the benefit of the population while also providing flexibility impossible if possible to those citizens who may not want to participate. As for the Commercial Businesses, that would be discretion of the Board, Republic Waste is not considering this at this point. Currently the Town does not provide solid waste disposal for Commercial.

Commissioner Taylor asked the question would the recycle bends come in different sizes or would everyone get one size with the same fee charge. Mr. Thompson stated that it would be all uniformed with a 65 gallon roll out very similar to the roll out for solid waste.

Commissioner Baker asked if the Town could check to see if there is a program that the Town could offer and approved by the State to leave some discretion to the homeowner of which way to go rather than saying all of our solid waste customers are going to be charged with an additional three dollar rate for recycling and have a customer that does not want to use that service for whatever reason. Is this something that the Town has to pass along and mandate that everyone has to participate or is this something that is available on as needed or as wanted basis?

**MINUTES OF DECEMBER 10, 2009 CONTINUED**

Commissioner Corbett asked the question if a citizen elects not to recycle and continues to mix plastic with the regular garbage what Republic Waste will do if they detect this.

Commissioner Baker asked the Town Manager to get a number on containers if the Town had to go curbside what type of money are we looking at if the Town tries to subsidize this through fund balance through the remainder of this fiscal year.

Commissioner Taylor made a motion to Table Mandated Recycling Options until more information is available and was seconded by Commissioner Baker. The Board voted 4 for and 2 absent (Commissioner Whitman and Ennis).

**PORTER PARK STEERING COMMITTEE DIRECTION SEEKING –REFERENCE:  
ADDITIONAL FUNDS FOR CONTINUED IMPROVEMENTS**

Town Manager Bryan Thompson informed the Board that the Porter Park Steering Committee met a couple of weeks ago and at its last meeting the Committee asked for guidance with respect to funding for additional improvements to the Porter Park. A number of issues that have been brought up by the Committee include the drainage issue that has proven to be problematic and the need to address this issue with a drainage improvement. Another item discussed by the Committee relates to playground equipment. The Committee believes that the equipment currently at Porter Park's is old and outdated and the Park would benefit from new equipment. Another of the more immediate issues at the park relates to the picnic shelter's roof, which is old and showing signs of rot on account of leaks.

Commissioner Baker stated that the restrooms were approved but not with a specific number. The motion was to construct the restrooms and funds needed necessary to construct to be transferred over to an amendment but not \$50,000.

Mr. Thompson stated that is how the motion reads however we will have to come back and get full budget amendment once the actual numbers come in.

Commissioner Taylor stated that he made a motion at that meeting as well to allocate \$50,000 to build the restrooms and put the remainder towards playground equipment, however, that motion failed due to no second.

Commissioner Corbett asked the question are the restrooms costing more than the \$23,000. Mr. Thompson stated that there is cost associated with the restrooms that Modular Solutions did not include which is the connection to water and sewer. Modular Solutions contract subs out both of those services by a fee from the structure so there will be some cost. Mr. Thompson estimated \$30,000 to complete the restrooms could vary however.

Commissioner Taylor made a motion to use \$20,000 to buy new playground equipment. The motion failed.

**MINUTES OF DECEMBER 10, 2009 CONTINUED**

Mayor Carson asked if the Steering Committee had any information concerning the playground equipment, drainage problems, and repairs to the picnic shelter if so present to the next Board of Commissioners meeting.

**CONSIDERATION OF ROAD REPAIR CONTRACT AWARD**

Town Manager Bryan Thompson informed the Board that he had received four (4) bids for this project. The proposed bids ranged from \$49,700 to \$63,391.34. Each of the bid amounts fell below the budgeted amount of \$70,000 found in the Powell Bill Dept. All the bid proposals came included with the required 5% bond for the project.

Raleigh Paving is the lowest bid proposal at \$49,700. The second lowest bid proposal was by Johnson Brothers Utility and Paving Company at \$52,690.

Commissioner Baker made a motion to accept Raleigh Paving bid of \$49,700 to repair Town of Erwin roads and was seconded by Commissioner Corbett. The Board voted 4 for and 2 absent (Commissioners Ennis and Whitman).

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**CONSIDERATION OF GRASS MOWING SERVICES CONTRACT AWARD**

Town Manager Bryan Thompson informed the Board that only one (1) bid was received for this project. The bid proposal calls for \$70.00 charge for non-conforming lots up to ½ acre with an additional \$30.00 per ¼ acre over ½ acre. The proposal also specifies an additional \$20.00 to \$30.00 additional charge for each ¼ acre that has vegetation in excess of 1 foot 2 inches. The additional cost for lots over this specified height will be agreed to on a case by case basis between the Town and Contractor and will be provided in writing by and between both parties.

Spanglers Lawn Care was the only one who submitted a bid. The Contractor did provide a certificate of insurance however staff will need to determine if the provided policy meets the criteria of the requirements specified in the subject RFP. Also the contractor has not submitted workman's compensation as required for said contract.

Provided that Spangler meets all insurance minimum requirements prior to the execution of the service agreement with the Town, Staff recommends that the Board award the contract to Spangler also recommends the Board to require said contract to be fully executed within 30 calendar days of the award of the contract provided that the contract is awarded to Spangler.

Commissioner Taylor made a motion to Table the Grass Mowing Proposal until Staff can contact this individual and basically the Table is until such time he attains required insurance and was seconded by Commission Baker. The Board voted 4 for and 2 absent (Commissioners Ennis and Whitman).

## MINUTES OF DECEMBER 10, 2009 CONTINUED

### ADOPTION OF RECREATION ADISORY BOARD BYLAWS

Town Manager Bryan Thompson informed the Board that the Recreation Advisory Board has made several adjustments to the bylaws. They are as follows:

#### **Section 2.10**

The Board shall hear appeals of suspensions either in person or by email. **Email appeals shall be used at the discretion of the Parks and Recreation Department staff.** Department staff shall contact Board members via telephone to inform the Board of the email appeal. A time limit on email responses shall be set in accordance with the time frame of the suspension. Any discussion via email shall be sent to all members of the Board via the "Reply All" function.

Mr. Thompson advised the Board that one of the premier reasons why we want to have these bylaws aside from the meeting bylaws by ordinance is to empower the advisory board with certain functions and its supposed that in this one sentence it may work against that spirit and that appeals through e-mails as prescribed in the bylaws may not be best served by having a preempted element through park staff to create that clear flowing transparency.

#### **Section 3.01**

The Board shall consist of seven (7) active members and two (2) alternate members, all of whom shall be appointed by the Board of Commissioners; **one (1) member of the Board of Commissioners**; and the Director of Parks and Recreation, whom shall be an ex-officio member. The Director of Parks and Recreation and the **Commissioner** shall be non-voting members.

Mr. Thompson stated that it might be best to pull the language out and leave it to the discretion of the Board of Commissioners at one point and anyone fashion, appointments will be made as liaisons or ex-officio members along those lines.

#### **Section 4.02**

The Board of Commissioners member shall serve until his/her term with the Board of Commissioners expires.

Mr. Thompson stated that this deals with Commissioners which is a reference link of term and should no longer be necessary.

Commissioner Baker stated that in following the Recreation Board we are giving in the authority some what like the Board of Adjustments had over the Zoning Administrator, it gives the citizens ability to carry it to an appeals board where it can be heard independently by that board and given all fairness to both park staff and the person that would have the grievance.

Commissioner Taylor had a concern with **Section 3.03**, Members of the Board shall be residents in the Town, the extraterritorial jurisdiction of the Town, or shall have such special skills so as to uniquely qualify him/her for duty on the Board.

Commissioner Taylor stated with that kind of language at this point could not vote for any kind of passage with that kind of language.

**MINUTES OF DECEMBER 10, 2009 CONTINUED**

Mr. Thompson advised the Board that in the last **Section 12.04**, In the event there is any conflict in any provision of these Bylaws with any provision of the Town of Erwin Ordinances on the Creation of Advisory Boards and Commissions, the provisions of the said ordinances shall control. If there is any conflict for instances if we go back and amend the ordinance to take out the last part of Section 3.03 then this document would be controled by that.

Commissioner Corbett made a motion to adopt with the amended changes by Staff and was seconded by Commissioner West. The Board voted 3 for, 1 against (Commissioner Taylor) and 2 absent. (Commissioners Ennis and Whitman).

Town Manager Bryan Thompson advised the Board that since this is the first time this issue has been brought to the Board of Commissioners we would need a majority of the vote and since there are two (2) Commissioners absent and one (1) Commissioner against the issue this motion did not pass. It was suggested to table this issue until the next meeting.

Commissioner Baker made a motion to Table the Recreation Advisory Board Bylaws until the next meeting and was seconded by Commissioner Taylor. The Board voted 4 for with 2 absent (Commissioners Whitman and Ennis).

**RESOLUTION REQUESTING FINANCIAL ASSISTANCE FROM THE STATE OF NORTH CAROLINA FOR FEASIBILITY STUDY OF CULVERT IMPROVEMENT ON RIVER DRIVE**

Town Manager Bryan Thompson informed the Board that in 2008 this Board studied to do a survey of the drainage system in East Erwin. It's a fairly large document with a number of identified issues and recommendations for a correct of action. The projective cost ranges anywhere for the entire project from 3 million to 10 million. The Town is requesting a Water Resources grant to assist with planning for storm water culvert improvements on a tributary to the Black River east of the central downtown area. This is a 50% match grant for the study of this particular area. It would go toward detail of feasibility, recommendations and then after that actual construction as we get drawings so we can submit that information for actual construction grants dollars.

Commissioner Baker stated that to be realistic the Town can not go and do the 3 million or 10 million project we will need to take it in small steps and small phases but in passing this resolution this initiates that first step so we can start taking small step to start addressing these issues. Commissioner Baker also stated that he was for this resolution.

Commissioner Taylor stated that this is going to be another study base in that particular area that will be an \$18,000 grant that will be matched by the Town of Erwin which is \$9,000. Commissioner Taylor then asked the question where the Town will get the \$9,000 from.

Commissioner Taylor made a motion to Table this issue until further study. The motion failed.

**MINUTES OF DECEMBER 10, 2009 CONTINUED**

Commissioner Baker asked if there are any time lines on this issue. Mr. Thompson replied that the grant application is due at the end of December of this year.

Commissioner Taylor asked the question does the Town have the money instead of going back into Fund Balance. Mr. Thompson replied that the Town would have to go into Fund Balance.

Commissioner Baker made a motion to approve the Resolution submitted by Staff for matching grant for the Culvert Improvements on River Drive and was seconded by Commissioner Corbett. The Board voted 3 for, 1 against (Commissioner Taylor) and 2 absent. (Commissioners Ennis and Whitman).

Town Manager Bryan Thompson advised the Board that since this is the first time this issue has been brought to the Board of Commissioners we would need a majority of the vote and since there are two (2) Commissioners absent and one (1) Commissioner against the issue this motion did not pass. It was suggested to table this issue until the next meeting.

Commissioner Baker made a motion to Table the Resolution submitted by Staff for matching grant for the Culvert Improvements on River Drive until the next meeting and was seconded by Commissioner Taylor. The Board voted 4 for with 2 absent (Commissioners Whitman and Ennis).

**MANAGER REPORT**

Mr. Thompson informed the Board that Staff will be planning the Annual Retreat in January and will be coordinating with the Board of Commissioners soon. This will be held at the Community Center in the Staff Meeting Room.

The Town's Christmas Party is Wednesday, December 16, 2009.

Ribbon Cutting scheduled for Tuesday, December 15<sup>th</sup> at 12pm for Studio One and Day Spa

Chilton Rogers will be at the next Board of Commissioner Meeting to present NC Step

Porter Park Restrooms has begun and hope to be completed within the next couple of weeks

PARTF Project is on schedule

The old Swift Water Tank is coming down and encouraged everyone to go by and take a look

**MINUTES OF DECEMBER 10, 2009 CONTINUED****GOVERNING BODY COMMENTS**

Commissioner Taylor thanked everyone for coming to the meeting. Also Thanked Mark Byrd and Staff for decorating the Town for Christmas.

Commissioner West also thanked Mark Byrd for a job well done in decorating the Town and had a great turn out for the Tree lighting Service as well. Encouraged everyone to attend the next Board of Commissioners to hear Ms. Rogers.

Commissioner Baker Thanked Mark Byrd and Staff for decorating the Town for Christmas and also thanked the Staff for another year of hard work. The Town of Erwin would not be what it is without the Staff. Remember the reason for the season that we are in and wished everyone a Merry Christmas and looking forward to a good New Year.

Commissioner Corbett thanked Staff and Mark Byrd for decorating the Town for Christmas. Appreciated all the hard work that Staff does for the Town. Wished everyone a Merry Christmas.

Mayor Carson thanked the Staff for all they do. Wished everyone a Merry Christmas.

**ADJOURNMENT**

Commissioner Taylor made a motion to adjourn at 8:26 P.M. and was seconded by Commissioner Corbett. The Board voted 4 for with 2 absent (Commissioners Ennis and Whitman).

**MINUTES RECORDED AND TYPED BY CYNTHIA B PATTERSON  
TOWN CLERK**

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**Patsy M. Carson, Mayor**

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**Cynthia B. Patterson, Town Clerk**